

# House File 2640 - Introduced

HOUSE FILE \_\_\_\_\_  
BY COMMITTEE ON LABOR

(SUCCESSOR TO HSB 673)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act requiring an annual cost-of-living adjustment for certain  
2 weekly workers' compensation benefits.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 6473HV 82  
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1 1 Section 1. Section 85.36, Code 2007, is amended to read as  
1 2 follows:  
1 3 85.36 BASIS OF COMPUTATION.  
1 4 1. The basis of compensation shall be the weekly earnings  
1 5 of the injured employee at the time of the injury. Weekly  
1 6 earnings means gross salary, wages, or earnings of an employee  
1 7 to which such employee would have been entitled had the  
1 8 employee worked the customary hours for the full pay period in  
1 9 which the employee was injured, as regularly required by the  
1 10 employee's employer for the work or employment for which the  
1 11 employee was employed, computed, or determined as follows and  
1 12 then rounded to the nearest dollar:  
1 13 ~~1.~~ a. In the case of an employee who is paid on a weekly  
1 14 pay period basis, the weekly gross earnings.  
1 15 ~~2.~~ b. In the case of an employee who is paid on a  
1 16 biweekly pay period basis, one-half of the biweekly gross  
1 17 earnings.  
1 18 ~~3.~~ c. In the case of an employee who is paid on a  
1 19 semimonthly pay period basis, the semimonthly gross earnings  
1 20 multiplied by twenty-four and subsequently divided by  
1 21 fifty-two.  
1 22 ~~4.~~ d. In the case of an employee who is paid on a monthly  
1 23 pay period basis, the monthly gross earnings multiplied by  
1 24 twelve and subsequently divided by fifty-two.  
1 25 ~~5.~~ e. In the case of an employee who is paid on a yearly  
1 26 pay period basis, the weekly earnings shall be the yearly  
1 27 earnings divided by fifty-two.  
1 28 ~~6.~~ f. In the case of an employee who is paid on a daily  
1 29 or hourly basis, or by the output of the employee, the weekly  
1 30 earnings shall be computed by dividing by thirteen the  
1 31 earnings, not including overtime or premium pay, of the  
1 32 employee earned in the employ of the employer in the last  
1 33 completed period of thirteen consecutive calendar weeks  
1 34 immediately preceding the injury. If the employee was absent  
1 35 from employment for reasons personal to the employee during  
2 1 part of the thirteen calendar weeks preceding the injury, the  
2 2 employee's weekly earnings shall be the amount the employee  
2 3 would have earned had the employee worked when work was  
2 4 available to other employees of the employer in a similar  
2 5 occupation. A week which does not fairly reflect the  
2 6 employee's customary earnings shall be replaced by the closest  
2 7 previous week with earnings that fairly represent the  
2 8 employee's customary earnings.  
2 9 ~~7.~~ g. In the case of an employee who has been in the  
2 10 employ of the employer less than thirteen calendar weeks  
2 11 immediately preceding the injury, the employee's weekly  
2 12 earnings shall be computed under ~~subsection 6~~ paragraph "f",  
2 13 taking the earnings, not including overtime or premium pay,  
2 14 for such purpose to be the amount the employee would have  
2 15 earned had the employee been so employed by the employer the  
2 16 full thirteen calendar weeks immediately preceding the injury  
2 17 and had worked, when work was available to other employees in  
2 18 a similar occupation. If the earnings of other employees

2 19 cannot be determined, the employee's weekly earnings shall be  
2 20 the average computed for the number of weeks the employee has  
2 21 been in the employ of the employer.

2 22 ~~h. In the case of an employee injured in the course of  
2 23 performing as a professional athlete, the basis of  
2 24 compensation for weekly earnings shall be one=fiftieth of  
2 25 total earnings which the employee has earned from all  
2 26 employment for the previous twelve months prior to the injury.~~

2 27 ~~8- 2. If at the time of the injury the hourly earnings  
2 28 have not been fixed or cannot be ascertained, the earnings for  
2 29 the purpose of calculating compensation shall be taken to be  
2 30 the usual earnings for similar services where such services  
2 31 are rendered by paid employees.~~

2 32 ~~9- 3. If an employee earns either no wages or less than  
2 33 the usual weekly earnings of the regular full-time adult  
2 34 laborer in the line of industry in which the employee is  
2 35 injured in that locality, the weekly earnings shall be  
3 1 one=fiftieth of the total earnings which the employee has  
3 2 earned from all employment during the twelve calendar months  
3 3 immediately preceding the injury.~~

3 4 ~~a. In computing the compensation to be allowed a volunteer  
3 5 fire fighter, emergency medical care provider, reserve peace  
3 6 officer, volunteer ambulance driver, volunteer emergency  
3 7 rescue technician as defined in section 147A.1, or emergency  
3 8 medical technician trainee, the earnings as a fire fighter,  
3 9 emergency medical care provider, reserve peace officer,  
3 10 volunteer ambulance driver, volunteer emergency rescue  
3 11 technician, or emergency medical technician trainee shall be  
3 12 disregarded and the volunteer fire fighter, emergency medical  
3 13 care provider, reserve peace officer, volunteer ambulance  
3 14 driver, volunteer emergency rescue technician, or emergency  
3 15 medical technician trainee shall be paid an amount equal to  
3 16 the compensation the volunteer fire fighter, emergency medical  
3 17 care provider, reserve peace officer, volunteer ambulance  
3 18 driver, volunteer emergency rescue technician, or emergency  
3 19 medical technician trainee would be paid if injured in the  
3 20 normal course of the volunteer fire fighter's, emergency  
3 21 medical care provider's, reserve peace officer's, volunteer  
3 22 ambulance driver's, volunteer emergency rescue technician's,  
3 23 or emergency medical technician trainee's regular employment  
3 24 or an amount equal to one hundred and forty percent of the  
3 25 statewide average weekly wage, whichever is greater.~~

3 26 ~~b. If the employee was an apprentice or trainee when  
3 27 injured, and it is established under normal conditions the  
3 28 employee's earnings should be expected to increase during the  
3 29 period of disability, that fact may be considered in computing  
3 30 the employee's weekly earnings.~~

3 31 ~~c. If the employee was an inmate as defined in section  
3 32 85.59, the inmate's actual earnings shall be disregarded, and  
3 33 the weekly compensation rate shall be as set forth in section  
3 34 85.59.~~

3 35 ~~10- 4. If a wage, or method of calculating a wage, is  
4 1 used for the basis of the payment of a workers' compensation  
4 2 insurance premium for a proprietor, partner, limited liability  
4 3 company member, limited liability partner, or officer of a  
4 4 corporation, the wage or the method of calculating the wage is  
4 5 determinative for purposes of computing the proprietor's,  
4 6 partner's, limited liability company member's, limited  
4 7 liability partner's, or officer's weekly workers' compensation  
4 8 benefit rate.~~

4 9 ~~11- 5. In computing the compensation to be allowed an  
4 10 elected or appointed official, the official may choose either  
4 11 of the following payment options:~~

4 12 ~~a. The official shall be paid an amount of compensation  
4 13 based on the official's weekly earnings as an elected or  
4 14 appointed official.~~

4 15 ~~b. The earnings of the official as an elected or appointed  
4 16 official shall be disregarded and the official shall be paid  
4 17 an amount equal to one hundred forty percent of the statewide  
4 18 average weekly wage.~~

4 19 ~~12- In the case of an employee injured in the course of  
4 20 performing as a professional athlete, the basis of  
4 21 compensation for weekly earnings shall be one=fiftieth of  
4 22 total earnings which the employee has earned from all  
4 23 employment for the previous twelve months prior to the injury.~~

4 24 ~~6. The basis of compensation for permanent total  
4 25 disability benefits or death benefits shall increase on  
4 26 January 1 of each year for compensation which becomes due that  
4 27 year by a percentage equal to the cost-of-living adjustment  
4 28 made to disability benefits payable by the United States  
4 29 social security administration in December of the immediately~~

4 30 preceding year.

4 31 EXPLANATION

4 32 This bill requires an annual cost-of-living adjustment for  
4 33 certain weekly workers' compensation benefits.

4 34 The bill requires the basis of compensation for weekly  
4 35 workers' compensation benefits payable for permanent total  
5 1 disability benefits or death benefits to increase on January 1  
5 2 each year for compensation which becomes due that year, by a  
5 3 percentage equal to the cost-of-living adjustment made to  
5 4 disability benefits payable by the United States social  
5 5 security administration in December of the immediately  
5 6 preceding year.

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